

[NOT YET SCHEDULED FOR ARGUMENT]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Electronic Privacy Information Center,

Plaintiff-Appellee,

v.

United States Department of Homeland Security,

Defendant-Appellant.

No. 14-5013

MOTION TO FILE SUPPLEMENTAL APPENDIX

Defendant-appellant, the United States Department of Homeland Security, respectfully moves to file a supplemental appendix.

Plaintiff, the Electronic Privacy Information Center (“EPIC”), filed a request under the Freedom of Information Act for documents related to the Department of Homeland Security’s Standard Operating Procedure 303 (“SOP 303”), a protocol that governs the shutdown of wireless networks in emergencies to, *inter alia*, prevent the remote detonation of explosive devices. DHS withheld the bulk of SOP 303 pursuant to FOIA Exemptions 7(E) and 7(F). EPIC filed suit, and the district court held that FOIA Exemption 7(E) and 7(F) are inapplicable. The government has appealed.

After the parties agreed on the contents of the joint appendix, and the government filed the joint appendix and its opening brief, EPIC filed a responsive

brief raising an issue not addressed in the district court's decision, whether DHS properly segregated exempt material when redacting SOP 303. The government's reply brief addresses this issue.

For the Court's convenience, we would like to file a 30 page supplemental appendix containing the redacted document, which was filed in the district court. The Court may find it helpful to have before it the actual redactions when considering this issue. Copies have been lodged with the Court.

We have contacted counsel for the plaintiff-appellee about whether they will oppose this motion, but we have not received a response.

CONCLUSION

For the foregoing reasons, the court should permit the government to file a supplemental appendix.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2014, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Adam Jed

ADAM C. JED